

Application No. 10/810,349  
Filed: March 26, 2004  
TC Art Unit: 3721  
Confirmation No.: 8227

REMARKS

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Claim 1 has been amended to include the features of claim 9. Further, the feature "by moving the holder down into said container" is supported by the text in the bottom half of page 9 of the application.

Claim 2 has been amended to clarify the rotation feature of the inventive apparatus which is supported by the text in the first paragraph on page and the last paragraph on page 6.

The amendment of claim 3 is supported by the text on page 3, second paragraph.

Claim 5 has been amended to rectify a typographical error.

The amendment of claim 7 is supported by the last paragraph beginning on page 10 and the next three paragraphs as well as the last paragraph on page 11.

The amendment of claim 10 is supported by the part paragraph at the top of page 7 of the application.

The amendment of claim 11 is supported by the last paragraph beginning on page 3 and the first full paragraph on page 4.

The amendment of claim 21 for the element of the flexible curtain is supported by the last paragraph beginning on page 3 and the first full paragraph on page 4.

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I. Claim Rejection Under 35 U.S.C. § 112:

The Examiner has rejected all claims except 16-18 and 23 for not meeting the requirements of § 112. In view of the amended claims, the Applicant respectfully traverses the rejection.

The Applicant has noted the observations of the Examiner regarding the second paragraph of § 112. Accordingly, claims have been amended to bring them into compliance with the § 112. The Examiner is respectfully requested to withdraw the rejections.

II. Claim Rejection Under 35 U.S.C. § 102(b):

The Examiner has rejected claims 1, 5, 9, and 14-15 under 35 U.S.C. § 102(b) as being anticipated by US Patent Number 4,864,801 (hereinafter Fallas). The Applicant respectfully traverses the rejection.

Fallas teaches an apparatus for automatically collecting and packing a selected number of units of product in flexible bags into a carton in a vertical orientation. The apparatus includes a collecting assembly for receiving and positioning a row of such units in an inclined position. An assembly is provided to transport the inclined row of units from the collecting assembly to a loading station. The loading station is operable to raise one

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or more rows transported thereto from their inclined position to a substantially vertical position, then plunge the vertically positioned units into a carton. A controller is provided for synchronizing the relative operation of the apparatus. (Fallas Abstract).

Fallas does not suggest or disclose the novel elements of (i) a holder sized to be substantially fittingly receivable in a container to be loaded and (ii) a loading unit that places the layer (of bags) by moving the holder down into said container as is positively claimed by the Applicant in claim 1:

1. An apparatus for loading containers with bags, wherein the apparatus is provided with
  - a feed conveyor assembly;
  - a loading unit, wherein the apparatus is provided with
    - a control designed for forming a layer of bags in the loading unit, the layer having dimensions substantially corresponding to at least one bottom dimension of a container to be filled; wherein
      - the loading unit is provided with a holder which is movable up and down, the holder sized to be substantially fittingly receivable in a container to be loaded; and wherein
        - the control is designed such that the loading unit places the layer by moving the holder down into said container in the container to be filled. (Emphasis added).

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The Applicant's invention teaches a loading unit, a control, and a holder in such a configuration that bags containing objects may be placed at such a drop height that the objects may avoid damage from falling from an undesirable height. The holder is sized to fit snugly into the container and the loading unit places a layer of bags by moving the holder down into the container so as to minimize the drop height of bags into the container. This is described in the text on the upper half of page 4 of the application.

In contrast, Fallas discloses a door 66 which opens and units 12 are pushed into the carton 14 beneath the door 66. (See column 7, lines 44-48 and FIG. 2J). Such a mechanism has a plunger 70 pushing the units 12 into the carton with an attendant risk of damage to the contents of units 12. In other words, the door 66 and the plunger 70 do not achieve what is achieved by the inventive holder moving down into the container. Further, the inventive holder moves up and down while the door 66 of Fallas pivots between a vertical and a horizontal position.

Therefore, the Applicant respectfully submits that claim 1 is patentably distinct over Fallas and meets all of the requirements of 35 U.S.C. § 102(b). The Examiner is, therefore requested to withdraw the rejection of claim 1.

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Claims 2-15, 19-22 depend, directly or indirectly, from claim 1. As discussed above, these dependent claims are also patentably distinct at least for the reasons stated above. Therefore, the Examiner is respectfully requested to withdraw the rejection of these dependent claims.

III. Claim Rejection Under 35 U.S.C. § 103(a):

The Examiner has rejected claims 2-4 under 35 U.S.C. § 103(a) as being unpatentable over Fallas in view of US Patent Number 5,430,994 (hereinafter Focke). Claims 6-8, 12-13, and 20 are rejected as being unpatentable over Fallas in view of US Patent Number 5,123,231 (hereinafter Fallas'231). Further, claims 10 and 11 have been rejected as being unpatentable over Fallas; claims 19 and 21 have been rejected as being unpatentable over Fallas in view of Focke further in view of Fallas'231; and claim 22 has been rejected as being unpatentable over Fallas in view of Fallas'231 further in view of Focke. The Applicant respectfully traverses the rejections.

As discussed above, claim 1 is patentably distinct over Fallas. All of the dependent claims rejected under 35 U.S.C. § 103(a) depend, directly or indirectly, from claim 1. Therefore, claims 2-4, 6-8, 10-13, and 19-22 are also patentably unobvious

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